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No. 80-286

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

ROSEMARIE C. WOOTERS, ET AL.,
Petitioners,

v.

MARY D. JORNLIN, ET AL.,
Respondents.

RESPONSE OF MARYLAND NATIONAL BANK TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PAUL V. NIEMEYER,
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STATEMENT OF THE CASE

The District Court dismissed this case against Maryland National Bank deciding, in its discretion, not to exercise pendent jurisdiction. Its opinion is reported at 477 F. Supp. 1140.

Maryland National Bank also based its motion to dismiss before the District Court on a lack of venue. As a national bank chartered with its place of business in Maryland, venue does not lie against it in the District of Delaware. 12 U.S.C. § 94; *Radzanower v. Touche Ross and Company,* 426 U.S. 148, 152 (1976).

In an unreported per curiam opinion, the United States Court of Appeals for the Third Circuit affirmed, finding no abuse of discretion. The affirmance is reported at 622 F.2d 580 and the entire decision is set forth in petitioners' appendix, page A-1.

SUMMARY OF REASONS FOR DENYING THE PETITION

The petitioners fail to set forth any issue, argument or prayer to indicate any conflict with the decisions of the District Court and the Third Circuit as to Maryland National Bank. For these reasons, the petition should be denied.

ARGUMENT

In the petition, the petitioners seem to abandon any challenge of the District Court's decision and the Third Circuit's affirmance as to Maryland National Bank. They say at page 14:

> "Under principles of pendent jurisdiction plaintiffs also asserted various state law claims against Mr. Real Estate, the developer of Brookmont Farms and against Maryland National Bank, which supplied construction and permanent financing for the project. *Full exposition of these pendent jurisdiction claims is not necessary in this petition.*" (Emphasis added).

No issue, argument or prayer is directed to Maryland National Bank and no further statement is made about it.

For these reasons Maryland National Bank prays that the petition be denied.

CONCLUSION

This case was correctly decided as to Maryland National Bank by both the District Court and the Third Circuit. Petitioners provide no reason for this Court tc exercise its powers of review as to Maryland National Bank, and the petition for writ of certiorari should be denied.

Respectfully submitted,

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